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Holy Smoke, No More? Tobacco Control in Denmark

Erik Albæk

Foreigners visiting Denmark often find the country's tobacco-control policies appallingly lax. When they arrive at Copenhagen International Airport, they find the designated smoking areas to be a joke, separated from nonsmoking areas by nothing but (impure) air; they find it virtually impossible to find a smoke-free section even in Denmark's most upscale French restaurant, let alone cafés or bars; and they learn with disbelief that nonsmoking employees in Danish private workplaces are not even protected from smoke during lunch. Many Danish health policymakers share this gloomy view that Danish tobacco-control policies lag behind those of most "civilized" countries.

It is debatable, however, whether Danish tobacco-control policies, in general, lag behind policies in comparable countries. It may appear so when one focuses exclusively on Denmark's weak restrictions on public smoking, but the country's tobacco-control policymakers use all of the available policy instruments in efforts to reduce smoking: carrot (economic incentives), stick (regulations), and sermon (information). If the whole spectrum of policy instruments is considered, Denmark does not fare badly. In fact, the country has for decades been a front-runner in tobacco-control policies, and it still has some of the world's toughest policies. For instance, in the late 1920s, when Denmark dramatically increased its excise duty on tobacco products (a duty first

imposed in 1912), the country became a world leader in tobacco taxation. Moreover, it remains a leader today; its taxes on tobacco are the third highest in the European Union (EU). Also noteworthy is that the country has never permitted tobacco advertisements on the broadcast media.

The introduction of such restrictive policies is a puzzle because the configuration of interests favored the well-organized, prosmoking forces. It is well known, however, that once a policy is introduced, it is likely to stay on the same path for an extended period,¹ which is precisely what happened in Denmark. New tobacco-control policies were accepted as long as they were based on two fundamental principles implicitly informing the initial Danish introduction of excise duty on tobacco products: tobacco consumption is considered a private matter, and voluntary agreement is preferred to legal regulation. On the one hand, the acceptance of these principles allowed for the introduction of ever more restrictive policies to reduce active smoking. On the other, these same two principles would effectively preempt any attempts to introduce policies intended to protect nonsmokers from involuntary exposure to smoke—that is, passive smoking.

In view of the above, if someone had suggested in the late 1980s that, at the turn of the millennium, a Danish minister of health would introduce a bill to entirely prohibit smoking in a number of public premises, that person would have been considered out of touch with Danish culture and politics. It would just be too American—read “un-Danish”—to introduce a full ban rather than restrictions on smoking. It would be tantamount to political suicide.

Nonetheless, in 1999 a minister of health announced that he intended to introduce a bill to prohibit smoking in hospitals and in institutions for children and teenagers. It is true that he thereby committed political suicide; the prime minister did not reappoint the minister in a reshuffling of the cabinet in February 2000. Nevertheless, his two successors not only continued his tough stand on tobacco control, but actually introduced his bill. The proposals for tobacco control put forward by the Danish health authorities during the last decade suggest a shift in policy over a very short period

of time. We are thus faced with a second paradox, since conventional wisdom has it that once a policy path has been staked out, it is very difficult to change.

Danish tobacco-control policies are consequently marked by a number of puzzles, on which this chapter attempts to shed light.

Background and Context

When sailors first brought tobacco to Denmark in the second half of the sixteenth century, it came to be considered—there and also in the rest of Europe—both as a medical plant and as a stimulant. Since then, consumption has shifted with changes in fashion and production methods (in the beginning of the twentieth century, cigarettes became the dominant tobacco product and have remained so ever since). From the very start, warnings were voiced against smoking, and some of the first policies to restrict smoking were drastic. Due to his dislike for smoking, the seventeenth-century Danish king, Christian IV—possibly under the influence of his brother-in-law and fierce antismoker, King Jacob I of England—in 1632 prohibited import and trade in tobacco in Norway, then part of the Danish kingdom.² The ban was later lifted; never again have Danish policymakers dared or wished to take such dramatic steps in their efforts to reduce consumption.

From the very beginning an asymmetrical configuration of interests militated against the introduction of tobacco-control policies in Denmark. Those who favored restrictions on smoking were not, and to this very day still are not, well organized. There are various nongovernmental health organizations, the most important being the Danish Cancer Society, the Danish Heart Foundation, and the Danish Lung Association. All three of them, but the first in particular, have large budgets to run information campaigns and to support research. They are also heard when

proposals for new policies or regulations are introduced, but none is an especially powerful interest group.

Tobacco consumers are also not well organized. Hen-ry—an abbreviation of "*hensynsfulde rygere*," the Danish term for considerate smokers—was formed in 1987; the world's first organization of its kind, Hen-ry's explicit aim was to counterbalance the Council on Smoking and Health, established by the Danish Parliament the same year. Hen-ry's membership, however, as well as its political clout, has always been limited. And the organization was compromised in 2000 when the Danish press revealed that Hen-ry receives heavy financial support from Philip Morris.³ In addition to Hen-ry, there are a few other very small, and likewise insignificant, smokers' associations.

In contrast to health organizations and tobacco consumers, the small group of tobacco manufacturers can be easily mobilized for collective action, making it an influential interest group. The number of manufacturers reached its peak in 1921, with 1,518 registered, 1,200 of which were one-man or small-family businesses. At the same time there were a number of what were—on a Danish scale, at least—very large companies. In Copenhagen alone, 14 tobacco manufacturers each employed more than one hundred people in 1914. Over the years, tobacco manufacturing has become even more concentrated. Membership of the Tobacco Manufacturers Association of Denmark decreased, primarily through mergers, from 38 in 1950, to merely 7 in 2000, with Scandinavian Tobacco Company as the dominant member; there are only two small firms (which primarily produce marginal tobacco products) in which Scandinavian Tobacco is not involved. The Danish manufacturers satisfy 97 percent of the domestic cigarette market. They are also major exporters of tobacco products and are involved in tobacco manufacture in a number of European countries.⁴

When, at the beginning of the twentieth century, Danish tobacco policy was initiated through the imposition of duties on tobacco products, tobacco workers were also a significant force. An estimated 8,270 persons were employed in the tobacco industry in 1921, representing 0.54 percent of the total work force and 2.2 percent of industrial workers.⁵ In 1918, the chairman of the Cigar Sorters' Union became Denmark's first Social Democratic minister, and in 1924, he became the country's first Social Democratic prime minister. His sixteen years as prime minister has not been exceeded in the history of Denmark's parliamentary government. The number of employees in the tobacco industry decreased dramatically, however, from 7,536 in 1946, to 783 in 1999, at which point they represented only 0.027 percent of the active work force.⁶

With this particular, asymmetrical configuration of interests in the area of tobacco policy, "client politics" was the likely result;⁷ tobacco manufacturers and workers would organize and lobby to prevent costly policies from being imposed on them. Even so, a duty was imposed on tobacco products, and from the late 1920s on, it was one of the world's highest, if not the highest, excise duties on tobacco. In that initial, formative moment of Danish tobacco-control policy, the tobacco industry accepted the imposition of the duty but also ensured the establishment of an institutional arrangement that prevented a violation of its fundamental interests. The two basic principles thus laid down—as noted earlier, that tobacco consumption is considered a private matter, and that voluntary agreement is preferred to legal regulation—would inform Danish tobacco-control policy for decades.

Throughout the twentieth century, smoking and also alcohol consumption (from 1917) were viewed as private matters. And during the last forty years, which marked the expansion of Denmark's welfare state and the entry of many new issues into the public domain, Danish decision makers also abandoned restrictive legislation—"privatizing" decision making, as it were, and leaving it to the individual's free choice—on a small, but important, set of issues, including

abortion, pornography, and gender of spouse (that is, registered partnership).⁸ The Danes take pride in this liberal feature of Danish politics and look with deep skepticism at countries in which Danes see public moralism as informing political decisions—for instance, the United States or neighboring “Prohibition Sweden,” so nicknamed because of its restrictive alcohol policies.

A 1992 survey showed that Danes were less inclined to favor restrictions on smoking in public areas than citizens of other EU countries.⁹ With two out of three Danes indicating in 2000 that smokers should be allowed to smoke as long as they do so “considerately,” Denmark has a far more tolerant attitude toward smoking than other Nordic countries. Danes are also more likely than citizens of other Nordic countries to find the talk about passive smoking exaggerated.¹⁰ When the *The Lancet* recently accused Denmark’s Queen Margrethe II of causing the high prevalence of smoking among Danish women, Danes almost unanimously defended their queen’s right to smoke.¹¹

In both the public and private sectors, Denmark prefers voluntary alternatives over legal regulation. If the state wants to change people’s behavior, one legitimate policy instrument is information. If that fails, the next option is voluntary agreement. In the public sector, the attempt to impose state regulations concerning the consumption of tobacco on local government premises would be contested as violating the principle of local autonomy. With respect to the private sector, Denmark has a long tradition of governing with, rather than against, organized interests. For instance, ever since the late nineteenth century, labor regulations in Denmark (such as working hours and minimum wages) are almost exclusively based on voluntary agreements between labor unions and employers’ associations, with no state involvement; in many other countries, such matters are legally regulated by the state. In other policy areas, the state is involved, but the outcome—the means of control—is not legal regulation, but a voluntary agreement between the state and the relevant parties.

Tobacco Consumption

Per capita tobacco consumption in Denmark increased through much of the twentieth century; only in recent decades did it begin to decline (see Figure 1). Consumption did decrease significantly during World War II due to a shortage of tobacco products, but immediately after the war, tobacco consumption increased sharply and grew constantly over the next forty years before peaking in the late 1970s and early 1980s.

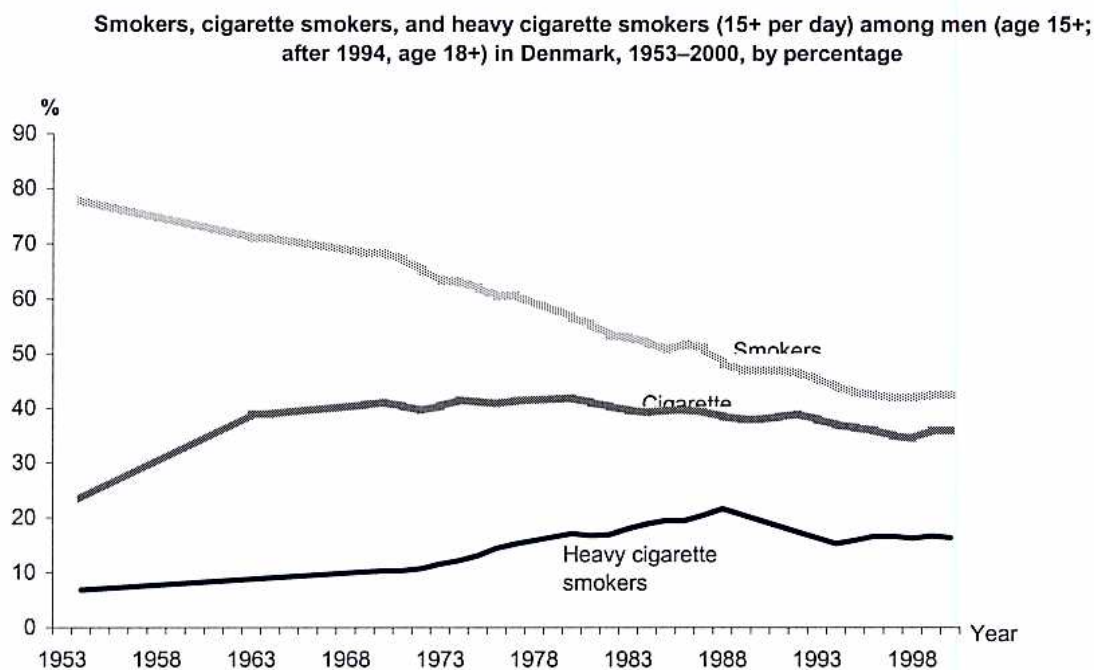
Figure 1. Yearly cigarette consumption per capita (age 15+) in Denmark, 1920–2000



Source: *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg*, Betænkning No. 357 (1964); *Statistisk tiårsoversigt*, various years.

The prevalence of smoking in Denmark has constantly decreased since 1953 (see Figures 2 and 3). While almost 78 percent of all Danish men over 15 years of age were smokers in 1953, the

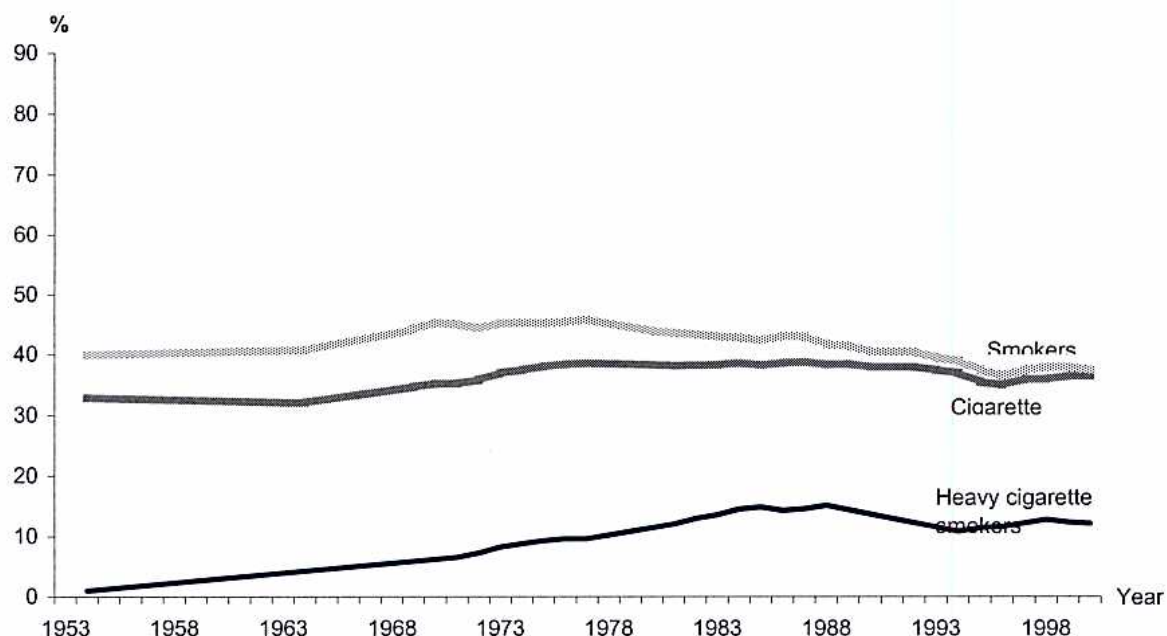
number dropped to 50 percent in 1987 and to 42 percent in 2000. For women, smoking rates increased from 40 percent in 1953, to 46 percent in 1976, and then dropped to 42 percent in 1987 and 37 percent in 2000. The decrease in the overall percentage of adult smokers is explained by the decrease in the number of pipe and cigar smokers. In 1970, 26 percent of male smokers smoked tobacco products other than cigarettes, compared to 7 percent in 2000. The corresponding figures for women were 11 percent in 1970 and 1 percent in 2000.



Source: Gallup

Note: Almost every other week, a representative sample of approximately 1000 Danes is asked, "How much did you smoke yesterday?" See P.E. Nielsen et al., "Ændring i danskernes rygevaner 1958–1976," *Ugeskrift for læger* 140: 2528–32 (1978); P.E. Nielsen et al., "Ændringer i danskernes rygevaner 1970–1987," *Ugeskrift for læger* 150: 2229–33 (1988).

Smokers, cigarette smokers, and heavy cigarette smokers (15+ per day) among women (age 15+; after 1994, 18+) in Denmark, 1953–2000, by percentage



Source: Gallup

Note: Almost every other week, a representative sample of approximately 1000 Danes is asked, "How much did you smoke yesterday?" See P.E. Nielsen et al., "Ændring i danskernes rygevaner 1958–1976," *Ugeskrift for læger* 140: 2528–32 (1978); P.E. Nielsen et al., "Ændringer i danskernes rygevaner 1970–1987," *Ugeskrift for læger* 150: 2229–33 (1988).

After increasing rapidly following World War II, from 1970 to 2000 the prevalence of cigarette smoking decreased slightly, from 39 percent to 36 percent. A larger decrease can be observed among men, from 41.5 percent to 35 percent. Among Danish women, 36 percent are smokers (a higher percentage than that for men). The prevalence of heavy smoking (15+ cigarettes per day) also increased rapidly in the years following the war, peaking in the late 1980s. In 2000, 15.3 percent of men and 11.9 percent of women were heavy smokers.

Denmark's overall 36 percent smoking rate is one of the highest in the EU.¹² A notable feature of the Danish population is the close parity in smoking rates of men and women (35 and 36

percent, respectively, in 2000); for many years, the prevalence of smoking among women has been higher in Denmark than almost anywhere else in the world. (And now the rate of tobacco-related deaths among women is also higher in Denmark.)¹³ One explanation for the country's high proportion of women smokers is that, in cross-country comparisons of secularization, the country consistently stands out as occupying the secular extreme,¹⁴ and increased secularization tends to reduce moral restrictions on women's behavior. Another factor is that male/female differences in behavior and attitudes have decreased because Danish women joined the labor force at an earlier stage and in greater numbers than women in most other Western countries.¹⁵

Denmark is one of the few countries where the estimated annual mortality due to tobacco is similar for men and women. An estimated one-fifth of all deaths—13,000, with 40 percent being women—are caused by tobacco.¹⁶ Female mortality from tobacco has increased more than tenfold since the mid-1960s. Lung cancer mortality in Danish women (35 per 100,000 in the early 1990s) is by far the highest in Europe.¹⁷ Estimates of costs vary considerably. When considered in terms of hospitalizations, medical care, sickness allowance, cessation programs, and so on, costs are enormous¹⁸ and often used as an argument for more restrictive tobacco-control policies. When also taking into account both smokers' contributions to the public coffers and the costs saved (for example, on pensions and elder care) when smokers' die relatively young, there may be a net economic gain to Danish society from the present level of tobacco consumption.¹⁹

Tobacco-Control Policies

Although the parameters of Danish politics have generally disfavored restrictive tobacco-control policies, restrictive policies have nevertheless been introduced, some dating to the early years of the twentieth century. In the end, all instruments available to policymakers are now applied

to tobacco control. The individual instruments used are presented chronologically below, in the order that they were introduced. Most instruments were intended to reduce active smoking. Only in the late 1980s were measures introduced to protect primarily nonsmokers from passive smoking.

The Price of Tobacco

Almost from the very introduction of tobacco into Denmark, policymakers recognized tobacco as providing a means of enhancing government income. As mentioned earlier, King Christian IV prohibited the import and trade in tobacco in Norway in 1632. Hesitant to introduce a similar measure into Denmark, he imposed a heavy import duty on tobacco, hoping to reduce consumption. The demand for tobacco did not stop. Instead, the King ran into the same problem encountered by present-day policymakers when using heavy taxation or prohibition as policy instruments: extensive smuggling. The import duty on tobacco was therefore reduced, and due to the rapidly increasing interest in tobacco—a new stimulant—the entrepreneurial king saw money start to flow into his coffers, which had been drained by war and also by his many public projects.²⁰

Whereas the import duty on tobacco has been used in Denmark for centuries, an excise duty on tobacco was introduced only in the early twentieth century. In 1891, the Danish Parliament passed an old-age pension act that was structured according to the principles that were later seen as characteristic of the special Scandinavian model of the welfare state.²¹ Using general taxation to fully finance pension payments was one of the special features of the Danish old-age pension scheme. Revenues were procured primarily by imposing an excise duty on beer (there was already a duty on distilled spirits). Although the temperance movements were gaining momentum at the time, social or health arguments for introducing the beer duty were not discussed in the readings of the bill. The Parliament focused on fiscal matters and the distributional consequences of imposing

excise duties on different goods.²² In 1902, the year prior to the introduction of income tax in Denmark, excise duties on beer and distilled spirits constituted 12 percent of public revenues.²³

An ever increasing need for state revenues rendered new objects of taxation necessary, and in 1912 the Danish minister of finance decided to imitate a German excise duty on cigarettes.²⁴ The finance minister asserted that “new revenues for the Exchequer” were needed.²⁵ No other arguments were put forward during the parliamentary readings. The industry, which was used to heavy import duties and saw the excise duty not as a dramatic, but as a fair, shift in policy, even assisted the finance minister in the technical drafting of the duty.²⁶ During that period—the late nineteenth and early twentieth century—the industry’s main concerns were, instead, the distributional consequences of specific duties and the protection against international competition.²⁷ World War I rendered new regulations and taxes necessary,²⁸ and in the end turned tobacco regulation and taxation into a complicated jigsaw puzzle. In 1917 a tobacco commission was established to conduct an analysis and to draft a proposal for comprehensive tobacco-taxation reform. Four years later the commission sent a comprehensive report to the minister of finance.²⁹ When, in 1922, Parliament passed a bill on tobacco taxation, repealing all existing tobacco acts, it followed the principles laid down in the tobacco commission’s report.³⁰

The commission was a truly corporatist body in line with the principles of corporatist policymaking that had been established around the turn of the century and then reinforced during the government’s Word War I crisis-management efforts. Manufacturers and distributors, as well as workers, were represented on the commission. They were to consider control mechanisms, the effects of various types and levels of duties on specific tobacco products, and how this all affected various groups of manufacturers, distributors, workers, and consumers. This task was not an easy one. For instance, the committee members knew that their suggestions would lead to a drastic reduction in the number of tobacco manufacturers. In 1922, the year the reform came into effect, no

less than two thousand tobacco manufacturers closed down—primarily tobacco workers who also had a small home production. This consequence was acceptable to the chairman of the tobacco workers' union—a commission member—only because compensation was promised to manufacturers who had to close down and because the overall reform would result in a consolidation of production in fewer, large production plants that would entail improvements in working conditions and wages for the workers.³¹ The Agrarian-Liberal minister of finance was overjoyed that the settlement was supported by all parties in the tobacco industry and trade, as well as the major parties in Parliament. During the parliamentary debate he noted:

Let me say to the honorable speaker before me that to my knowledge no tax bill ever presented in [the Parliament] has come about after so much cooperation among the most important actors in the trade that is the intended object of taxation. In conjunction with the state authorities, fully competent representatives of industry, commerce, and workers have, through extended and thorough negotiations, produced this bill and agreed among themselves on its provisions. I believe this is the only time a tax bill has been introduced here after such careful preparation, already consented to, and applauded, by the main actors in the trade in question.³²

In the two first decades of the twentieth century, membership in the Danish temperance movements increased dramatically,³³ and they did, at least marginally, concern themselves with the harmful effects of tobacco.³⁴ Nevertheless, health concerns were mentioned neither in the tobacco commission's reports nor in the extensive parliamentary debates—which were exclusively focused on developing a technically effective and politically acceptable system of tax collection. The bill was passed by a vote of 95 to 2.³⁵

World War I and its immediate aftermath became a “formative moment,”³⁶ setting out the path for future Danish tobacco policies. First, the 1922 tax reform definitely established that the use of tobacco, like the consumption of alcohol, had become a public issue that the state had a legitimate right to tax and regulate. Although tobacco manufacturers, distributors, and workers were well organized, they had not been able to effectively oppose taxation on tobacco. In the end, the state had to procure its revenues from somewhere, and interests related to “luxury” (such as sugar or tobacco) or even “harmful” (such as alcohol) products were in a less fortunate bargaining position than others. Second, the new policy regime was one in which the taxation of tobacco and alcohol products, as well as the regulation of their production and distribution, became a legitimate public concern, whereas consumption of either was defined as an exclusively private matter. Third, the formulation and implementation of tobacco policy became a corporatist matter; rather than legislating unilaterally, the government collaborated with the industry and distributors in order to generate a mutually acceptable outcome.

Throughout most of the century, the price of tobacco was discussed primarily in fiscal, and only occasionally in health, terms. In 1928, when excise duties on tobacco were increased dramatically to finance state loans to the Danish bank sector (which had been at the brink of collapse),³⁷ the spokesman of the Agrarian-Liberal party argued: “I will not go into the harmful effects of tobacco smoke—most likely all tobacco is evil in terms of health—but, after all, we do not introduce tax legislation primarily for ethical reasons.”³⁸ The spokesman’s last sentence could have been an epigram on Danish tobacco-taxation policy. Only rarely do health arguments enter taxation policymaking, though one example involved a parliamentary committee, set up at the initiative of the Socialist People’s Party, that submitted a report in 1970 on the distributional effects of excise duties on various social groups. Even though taxation on beer and cigarettes was clearly regressive—that is, low-income families spent a larger share of their income on beer and cigarette

duties than did high-income families—the report explicitly noted that “other factors must be taken into consideration when determining the excise duty level. It is possible that lower prices on beer and cigarettes will result in an unwanted additional consumption of these products.”³⁹ Thus, at that particular time, Danish policymakers explicitly considered the harmful effects of tobacco smoking even though not expressly included within their mandate.

The parliamentary committee just mentioned was clearly the exception, however, and not the rule. Two separate sets of actors, with little mutual contact, are responsible for taxation and health policies. As phrased by Carsten Koch, a former minister of taxation and later of health: “When the budget of the Ministry of Health is decided, excise duties on tobacco are never discussed. When the budget of the Ministry of Taxation is decided, health policy is never discussed.”⁴⁰ Only rarely and on a purely ad hoc basis does the Ministry of Taxation contact the Ministry of Health or other health policy actors. In fact, the Ministry of Taxation was flabbergasted when, in the mid-1990s, the minister of health sent a letter to the Ministry of Taxation asking it to consider an increase in tobacco excise duties.⁴¹ It is apparent from the very nature of this request, however, that the minister of health had limited knowledge of taxation policy. Danish tobacco duties are primarily imposed for fiscal reasons, not to reduce tobacco consumption, and since the introduction of the EU’s Single European Act in 1986, the main concern of the Ministry of Taxation has been an adaptation of Danish tobacco duties to duties in other EU member states, thus preventing increased cross-border trade and, with it, revenue losses for the Danish government.

Both the state and the Danish tobacco industry profit from the Danish tobacco-taxation system. The state profits significantly in monetary terms: taxation (excise duties and value-added tax) constituted 79.2 percent of the price of a cigarette in 2000.⁴² The proportion of central government revenues raised through tobacco excise duties varied widely over the course of the twentieth century. In 1913, the year that excise duties were first introduced, excise duties on

cigarettes made up 0.34 percent of central government revenues. In 1920, they grew to 3.4 percent, and in 1950, to 21.14 percent.⁴³ Not even the Danes, however, could smoke their way through the massive expansion of the welfare state that began in the mid-1960s. For the rest of the century, duties on tobacco were a declining share of total revenues for the central government (local governments do not impose excise duties). In 2000, the Dkr 7.6 billion duties on tobacco (roughly U.S.\$988 million, with Dkr 1 = U.S.\$1.3) constituted 1.7 percent of central government revenues; if VAT is added, revenues generated from taxation on tobacco amounted to Dkr 10.1 billion. By way of comparison, during the same year, the central government spent Dkr 20.3 billion on the armed forces and Dkr 10.4 billion on the police force.⁴⁴ Consequently, from the perspective of Parliament and the central government generally, tobacco is an important source of revenue.

The domestic tobacco industry also benefits from the tax system. The Danish excise duty on cigarettes comprises a fixed specific excise duty (imposed as a fixed amount per one thousand pieces) and a variable ad valorem duty (proportional to the final retail price); in 2000, there was, in addition to VAT of Dkr 6.20, a specific fixed duty of Dkr 12.14 and an ad valorem duty of Dkr 6.58 on a pack of twenty cigarettes, which sold for Dkr 31 (approximately U.S.\$4). Denmark's fixed specific duty, which is comparatively high, has kept foreign tobacco companies from seriously trying to conquer the Danish market: (1) the duty leaves little room for competition; (2) consumer loyalty to specific brands entails large initial costs when marketing a new foreign product; and (3) the Danish market is too small to be of serious interest to foreign companies. Consequently, Denmark's domestic industry currently has 97 percent share of the domestic market, and the industry's profits from its de facto monopoly are enormous. In 2001 Skandinavisk Tobakskompani was Denmark's eighteenth largest company.⁴⁵

Following Denmark's decision to join the European Community (EC) in 1972, Danish policymakers gradually lost the option of using taxation as an instrument to reduce tobacco

consumption (assuming that they had wanted to do so). At the point of entry, cigarette prices in Denmark were the highest in the EC, and they are still among the highest, surpassed only by those in Great Britain and Ireland.⁴⁶ Due to rising levels of income and reduced duties, however, the price of cigarettes in Denmark has fallen dramatically—in relative terms—to half of what it was in the early 1970s. Whereas an average manual worker had to work fifty-three minutes to earn enough to buy a pack of cigarettes in 1970, only twenty-four minutes were needed in 2000.⁴⁷ Moreover, only if prices in other EU countries are raised dramatically will the Danish government be able to uphold the high Danish tobacco prices. In January 2004, the so-called 24-hour regulation will be abolished; it requires EU citizens to stay abroad for at least twenty-four hours before they can import more than one hundred cigarettes without paying duties in their home country. The Ministry of Taxation estimates that cigarette prices must be lowered from the present Dkr 31 to Dkr 25 to prevent increased cross-border shopping.⁴⁸

Although the introduction of the Single European Market may have increased the average price of tobacco products in the EU as a whole, it has de facto decreased tobacco taxation (and thereby prices) in member states that have traditionally imposed high duties on tobacco products. In these countries the introduction of the Single European Market appears to contradict the EU's increasingly tough anti-tobacco policies.

This claim is contingent, however, upon a correlation between price and consumption. The history of high taxation in Denmark indicates that if the correlation exists, it is not a simple one. First, even though Denmark has long had the highest excise duties on tobacco in Europe, the Danes have also had some of the highest, and even increasing, rates of smoking. Second, it is not clear what effect an increase in tobacco duties has had on the use of tobacco in Denmark. As indicated in Figure 1, each Dane (age 15+) consumed 1,622 cigarettes in 2000, compared to 385 in 1920. As is apparent from the same figure, there have been various increases and decreases in per capita

consumption during that time period. The marked reduction in consumption in 1929 (34.1 percent) and in 1932–33 (12.9 percent) followed significant price hikes stemming from increases in the excise duties on tobacco. At that time the government had the ability, at least for short periods, to influence cigarette consumption by means of its taxation policy; there was still considerable price elasticity because of what were, by present-day standards, modest incomes. The next period of significant decline occurred during World War II, but the decline was the product of shortages and wartime rationing rather than having any relation to taxation. After the war, excise duties periodically increased but without having any significant, long-term impact on consumption, indicating that the general increase in income that the Danes began to experience after the war reduced the price elasticity of relatively inexpensive luxury goods such as cigarettes.⁴⁹ Despite high excise duties, consumption continued to grow until the early 1980s. Cigarette consumption then began to decline, but excise duties were also declining in an effort to bring Danish duties more into line with those in other EU countries.

All things considered, Danish taxation policies indicate that excise duties may, in certain circumstances, have an effect on the consumption of relatively cheap luxury goods such as cigarettes and alcohol. In particular, duties would have to be high compared to the population's income level. It is an open question, however, whether the Danish population would accept the extremely high duties on tobacco that would be required to bring net prices to the level that they were at in the late 1920s and early 1930s. And even then the duration of the effect is uncertain.⁵⁰ Moreover, a substantial increase in excise duties would demand consensus at the EU level. When Sweden increased tobacco duties heavily in August 1997, the country faced the same problems that King Christian confronted four hundred years ago: increased smuggling and cross-border trade. In 1998, exactly one year after imposing the higher duties, Sweden rescinded the increase.⁵¹

The Public Visibility of Tobacco

Another policy instrument intended to reduce tobacco consumption is the regulation of tobacco advertisements and warning labels. In Denmark, restrictions on advertisements were first imposed on the broadcast media. Only much later were such restrictions imposed on the print media, along with requirements for warnings on product labels.

The Danish Parliament passed the first broadcasting act—to regulate radio—in 1926.⁵² That act laid down the principles that were the foundation for all subsequent broadcasting acts passed through the 1970s. Most important was that the Danish Broadcasting Corporation (DBC) would have a monopoly on broadcasting and that the corporation would be financed solely by a radio license paid by the listeners. Thus, from the very beginning it was determined that there would be no advertising—for tobacco or anything else—on Danish radio. This same restriction applied to television when, in the 1950s, televised broadcasting was incorporated into the existing broadcasting act. The principle of banning advertising on radio and television was never seriously questioned until the end of the 1970s, when the idea of breaking the DBC's monopoly started to take shape. When the monopoly finally ended in 1988 with the establishment of a second public television channel, that channel was, under specific regulations, allowed to earn some of its income from advertisements. The Ministry of Culture had already issued an order, however, that prohibited the broadcasting of tobacco advertisements.⁵³

By contrast, tobacco advertising has always been permitted in the print media. The wisdom of this approach was seriously questioned, however, in the early 1960s. In 1961, prior to the equivalent British (1962) and U.S. (1964) reports on smoking and cancer, an expert committee formed by the Minister of the Interior, then responsible for health, delivered a report that concluded:

After a review of all studies known to the committee and of several survey articles and reports concerning the possible connection between smoking—in particular, cigarette smoking—and lung cancer, it is the opinion of the committee that the original clinical observation of such a possible connection has found statistical support. The committee therefore thinks that there is a causal relation between smoking—primarily cigarette smoking—and lung cancer.⁵⁴

The committee was not alone in reaching this conclusion. In early 1961, a large anti-cigarette campaign was launched to change the Danes' smoking habits. It included material for schoolchildren and also for forty radio shows.⁵⁵ In 1963, the Minister of the Interior formed another expert committee to consider measures to reduce cigarette consumption in Denmark. The committee's 1964 report cited widespread attention to the link between smoking and cancer in the printed press, as well as on radio and television.⁵⁶ An expert opinion printed in the report ascribed a stagnation in tobacco consumption in the mid-1950s to Danes' increased concern about the harmful effects of smoking.⁵⁷ For example, the Danish Cancer Society had run extensive anti-cigarette health education programs in the 1950s, and a couple of general descriptions of the problem had been published, such as "Smoke Less—Live Longer" in 1954.⁵⁸

The committee members for the 1964 report were professionals from the medical sector, the educational sector, or the Danish Cancer Society. Although they had been asked to consider possible measures to reduce cigarette consumption, the committee members explicitly interpreted their mandate to mean that they were not to consider the ultimate measure: a total ban on the manufacture and sale of cigarettes. And the members themselves would not have supported such a far-reaching interference with consumers' free choice.⁵⁹ The report made a number of proposals, some major, some minor. First, the report suggested a massive upgrading in health education

programs on the harmful effects of cigarette smoking, along with the establishment of a permanent expert council to plan and implement anti-cigarette education programs. Second, the report suggested restrictions on advertising. The committee considered but ultimately did not follow the opinion of one expert who had studied cigarette advertising in Denmark and determined that it had little effect on consumption.⁶⁰ The committee noted that “measures against cigarette advertisement can be said to be experimental. However, the committee does not think that the fact that the positive effects of such measures cannot be determined beforehand with certainty should stop a responsible society from using all available options to reduce cigarette consumption.”⁶¹

Restrictions on advertising considered by the committee included a total ban, regulating the form and content of advertisements, media-specific restrictions, and an obligation to print warning labels on advertisements and cigarette packs. The committee opted for the most far-reaching solution—a total ban on cigarette advertising—and therefore proposed a draft bill, which was included in the report. The committee’s other recommendations included the following: that excise duties be raised to a level at which the individual consumer would have a tangible economic incentive to switch from cigarettes to other tobacco products; that cigarettes not be made available at governmental meetings; that cigarettes be sold only during ordinary business hours; that only tobacco products other than cigarettes be sold at restaurants, bars, and canteens; that cigarettes not be allowed as prizes in lotteries; and that smoking be banned on public transportation.⁶²

These policy proposals may have been politically naïve; at the time they were presented, they gained no hearing outside a rather narrow group of experts. But they were also far ahead of their time. Among countries with a social fabric comparable to that of Denmark, only Italy and the Soviet Union had a total ban on cigarette advertising in place then, and West Germany was regulated by a voluntary agreement to reduce tobacco advertising in general and also not to target youngsters.⁶³ Similarly, the committee’s other proposals also were implemented only in rare cases.

Nevertheless, no matter how naïve the committee members may have been, and no matter how radical their ideas were for that particular time, the report put into print a number of ideas that, over the next forty years, were transformed into policy in Denmark, just as they were in many other countries.

Although the committee's recommendations were too radical for their time, it would be wrong to infer that there was no support for less radical interventions to combat smoking. Even prior to the publication of the report, the first efforts to restrict cigarette advertising had already been made in Denmark. In April 1962, the Danish tobacco industry promised the Ministry of the Interior to abstain, for the rest of the year, from certain types of advertising. This commitment was later extended,⁶⁴ and in 1972 the Tobacco Manufacturers Association signed a formal, voluntary agreement restricting the form and content of cigarette advertisements.⁶⁵ In particular, the agreement restricted the media, location, and occasion of cigarette advertising, as well as the categories of persons that might be visually presented in advertisements. Manufacturers were required to stop deliveries to wholesale or retail dealers who did not comply with the agreement's provisions. For years, it had been obvious to the tobacco industry that both nationally and internationally, the wind was blowing in the direction of restrictions on advertising. Rather than being presented with a parliamentary *fait accompli* in the form of an act on which they had no say, the industry preferred to negotiate their way to an agreement. In addition, a voluntary agreement avoided the unfortunate precedent that might arise from allowing Parliament to regulate advertising.

There were good reasons for the tobacco industry to fear parliamentary interference. In 1971, three parliamentarians of the Nordic Council proposed that the council "recommend to the [Nordic] governments that tobacco advertising be prohibited in the Nordic Countries."⁶⁶ In its twentieth session in February 1972, a majority of the council recommended that the governments of the Nordic countries "introduce uniform regulations and restrictions on the access to tobacco

advertising, and introduce effective health education on the harmful effects of tobacco smoking, particularly directed towards young people and by means of exhaustive informative labels on tobacco packaging.”⁶⁷

In 1974, the relevant ministries from the Nordic countries decided to form an inter-Nordic committee to survey existing regulations on the advertising and labeling of tobacco products in the Nordic countries and to formulate a proposal for a possible inter-Nordic health education program on the harmful effects of smoking. Prior to this initiative, the Norwegian Parliament had introduced a total ban on tobacco advertising in 1973. Of the three remaining Nordic countries, Denmark had developed the most restrictive regulations. Over the years, the Danish tobacco industry has negotiated and signed voluntary agreements on advertising and labeling, all expanding the scope of the 1972 agreement in accordance with international developments. A 1980 agreement regulated the advertising of all tobacco products, not only cigarettes, and prohibited indirect advertising in the marketing of products or services other than tobacco products. A 1986 agreement determined that cigarette advertisements and packs must carry information on nicotine and tar yield, plus the warning: “The National Board of Health calls attention to the fact that tobacco smoking is injurious to health.” Finally, a 1991 agreement regulated sponsorship.⁶⁸

From the mid-1980s the Danish Parliament, as well as the EC, also began to concern itself with tobacco advertising and labeling. In the 1987–88 parliamentary session, the left-wing Common Course party introduced a resolution to prohibit the advertising of tobacco and alcohol products.⁶⁹ In the same session, during the committee debate on two bills on smoke-free environments and labeling,⁷⁰ the minister of the interior was asked to draft a bill that would prohibit the advertising of tobacco products. Both the resolution and bills lapsed at the call of a new election.

Advertising and labeling issues now moved to the EC level and also to other international forums such as the European Council and the World Health Organization. In the late 1980s and

early 1990s, the EC Council issued a number of directives on advertising and labeling. The very first of these directives (89/552/EEC of October 3, 1989), which harmonized a ban on television advertising of tobacco products, did not conflict with existing Danish legislation. Indeed, with its already existing ban on broadcasting of tobacco advertisements, Denmark was one of the countries that stood to gain most by a directive that would prevent broadcasting of tobacco advertisements to Danish viewers from abroad. The Danish government nevertheless objected on grounds of principle (similar to Germany's successful objections to Council Directive 98/43/EC of July 6, 1998, on the "advertising and sponsorship of tobacco products"):⁷¹ provisions intended to improve the conditions for the establishment and functioning of the internal market could not be an appropriate legal basis for measures intended to regulate cultural matters.⁷² Denmark therefore put a "pending veto" on the directive; that is, if the EC Commission brought a case against Denmark for noncompliance before the European Court of Justice and won the case, Denmark would claim a vital interest and veto the directive.⁷³

Neither the government nor the Parliament had problems with the EC directives on the labeling of tobacco products and on the maximum tar yield of cigarettes. These directives were soon implemented in Danish law.⁷⁴ Moreover, despite Germany's successful objections to Directive 98/43/EC, the Danish government decided to introduce a bill to the same effect in December 2000, prohibiting most types of tobacco advertisements in Denmark. Both the tobacco industry and retailers objected before the parliamentary health committee, but in vain: the Parliament passed the bill in May 2001.⁷⁵

The gradually tighter Danish regulation of advertising and labeling came with no great controversy. In the beginning, the Danish population was mostly skeptical about a ban on cigarette advertising. A 1988 survey found that 43 percent of all Danes (47 percent of the women and 39 percent of the men) favored a ban, while 49 percent were opposed.⁷⁶ Nevertheless, since the tobacco

industry was fully aware of international developments in this field, it voluntarily agreed, step by step, to restrict advertising and to label its products. The voluntary Danish agreements were mostly in accordance with later EC directives, and their implementation in Danish law therefore merely a codification of already existing voluntary regulations. The industry has generally complied with the provisions of the voluntary agreements; only rarely has tobacco advertising been interpreted as being in breach. One such example was in 1996, when House of Prince had to withdraw a lifestyle magazine that allegedly catered to young people.⁷⁷ The voluntary nature of the agreements, in contrast to the bans in both Norway and Sweden, may help to explain why the Danish tobacco industry generally complies with the regulations; in Norway, for example, the ban on advertising was fiercely disputed in the late 1980s.⁷⁸

Health Education

From the 1950s on, the main efforts to inform the public about the harmful effects of smoking were handled by nongovernmental health organizations, such as the Danish Cancer Society, the Danish Heart Foundation, and the Danish Lung Association. In 1979, the Danish Parliament established Forebyggelsesrådet, an independent council to promote public health (in general, not just with regard to smoking).⁷⁹ When the relevant act was revised in the mid-1980s, there was widespread agreement that more had to be done to reduce the number of smokers and to prevent the harmful effects of smoking in Denmark. There was some dispute, however, as to whether these goals could be achieved through the existing public health council. Inspired by a Norwegian model, the Parliament decided in 1987, against the government, to establish an independent, expert Council on Smoking and Health, which is precisely what had been suggested in 1964 by the expert committee.⁸⁰ The council's overall objectives are to reduce the number of active

smokers and to prevent involuntary exposure to passive smoking. It advises the government and has, over the years and often in close cooperation with other health organizations, launched a broad range of programs to prevent recruitment of new smokers, to establish smoke-free environments, and to motivate and help smokers quit smoking. Specific projects undertaken by the council include ones to prevent smoking during pregnancy, to involve dentists in encouraging young people not to smoke, to train facilitators for smoking cessation in the workplace, and to organize direct-mail campaigns to heavy smokers.

The council has been highly conscious of its political legitimacy. It has avoided extremist positions and has promoted, instead, a dialogue based on facts. Likewise, it has avoided stigmatizing smokers or smoking. Had it taken a tougher line, the council would have lost legitimacy among Danes and become politically impotent. Here, again, there is a difference between Denmark and its neighbors in their tobacco-control strategies; for example, unlike Denmark, the Norwegian government does not hesitate to tell Norwegians what they ought to do or must not do—a posture that is totally alien to Danish culture and political tradition.⁸¹

When it was first established in the late 1980s, the council's budget was approximately Dkr 4.5 million (less than U.S.\$600,000). After a government led by the Social Democrats took over in 1993, appropriations were more than doubled and has been roughly Dkr 10 million since 1995. It is often noted in public debate that this amount is a small fraction of the Dkr 10 *billion* that the government collects each year in tobacco taxation (excise duties and VAT), but there is no tradition in Denmark for directly linking central government taxation to spending. Moreover, according to a former minister of taxation who later became an outspoken anti-tobacco minister of health, linking taxation to spending would be unwise since spending decisions would thereby become inflexible.⁸² Finally, it should be mentioned that Denmark's anti-tobacco programs are not limited to those of the council; Danish county and local authorities also run many such programs on their own.

Regulating Tobacco Products

Unlike other measures, which are intended to reduce the number of smokers and cigarettes smoked, regulations on cigarette content are intended to reduce the harmful effects of the cigarettes themselves. In the 1986 voluntary agreement with the Ministry of the Interior, the Tobacco Manufacturers Association committed its members to reduce the tar yield in cigarettes, and as of the end of 1992, the maximum tar yield in Danish cigarettes would come close to the maximum tar yield of 15 mg per cigarette specified in Council Directive 90/239/EEC of 1990. The additional reduction specified in the directive—to 12 mg by the end of 1997—caused no controversy in Denmark. The market share of full-flavor cigarettes (11–12 mg tar yield) gradually decreased during the 1990s.⁸³

In March 2000, the Ministry of Health and the Tobacco Manufacturers Association signed a voluntary agreement on additives.⁸⁴ In the agreement, the tobacco industry committed itself to submitting an annual report to the ministry listing the additives used in cigarettes sold in Denmark. For a number of years the tobacco industry had been hesitant to make such a list public, claiming that doing so would infringe manufacturers' rights, but the industry changed its position; not only were similar lists being published in other countries, but the EU was known to be planning a directive making such reporting mandatory. Immediately after the agreement was signed, the left-wing Red-Green Alliance moved a parliamentary resolution requesting the government to draw up an approved list of additives; those increasing smokers' dependence on tobacco, increasing the absorption of nicotine, easing the initiation of smoking, increasing the injurious effects of smoking, or damaging the external environment were to be prohibited.⁸⁵ The motion was defeated—and was actually opposed by the Ministry of Health. It seems inevitable that the EU will issue a directive on

additives in the near future, and implementing such a directive in Danish law will be easier for the ministry if a voluntary agreement alone, and no prior parliamentary act, is in place. When the Danish tobacco industry issued its first list of additives in July 2000, there were no surprises; the additives were all known from similar lists abroad.⁸⁶

The tobacco industry's publication of the additives list may lead to the first legal action for damages against a tobacco manufacturer before a Danish court. In contrast to the American common law system, there is neither tradition nor incentive for court cases in the Danish civil law system. In general, social conflicts in Denmark are solved in the corporatist-bureaucratic, rather than the judicial, system. As a result, litigation in Denmark is not conducive to political mobilization supported by judicial activism, contrary to what has been seen in many countries with common law systems,⁸⁷ and there has been virtually no mobilization either of nonsmokers or of present or past smokers suffering from tobacco-related illnesses. It is against this background that a recent Norwegian court case and subsequent developments in Denmark need to be understood.

In 1999 a Norwegian tobacco manufacturer was sued for damages caused by smoking. The case was ultimately dismissed, but it drew much media attention in Denmark—in part because the Norwegian manufacturer had recently been taken over by a Danish tobacco manufacturer (which now potentially faced serious economic losses if the case was lost), and in part because the outcome of the Norwegian case, due to the similarity of Norwegian and Danish law, would indicate whether similar actions for damages might be won in Danish courts. The claims of the Norwegian plaintiff were ultimately dismissed in November 2000, but prior to the dismissal, and after the Danish tobacco industry had made public its list of additives in July 2000, a Danish attorney—as an initial step in a liability action—applied for free legal aid on behalf of a client for the purpose of bringing such an action against two Danish tobacco manufacturers. The application explicitly noted that the plaintiff did *not* hold the two manufacturers liable for known illnesses related to tobacco smoking.

In this respect the plaintiff's claim differed fundamentally from the Norwegian case. The plaintiff argued, instead, that the manufacturers was liable for damages because additives, which increase the consumer's addiction to nicotine, were—unknown to consumers—used in the production of cigarettes. As a result the plaintiff could not stop smoking even though, after severe illness and surgery, he had wished and attempted to do so over an extended period.⁸⁸

Protection for Nonsmokers

The tobacco-control strategy that has caused most controversy in Denmark is the restriction of when and where smoking is permitted. Taxation, regulation of advertising, labeling requirements, tar and nicotine yields, and other measures have been accepted by Danes as fully legitimate means to improve and promote public health, whereas restrictions on smoking have been seen as an infringement on the individual citizen's right to free choice. There have always been restrictions on smoking for hygienic reasons, but only in the late 1970s and early 1980s did the idea begin to emerge that nonsmokers had a right to protection against smoke. The Danes only hesitantly accepted the idea, but today there is widespread agreement that nonsmokers must be protected. Disagreements arise over whether protection for nonsmokers can be accomplished only by bans on smoking in public areas.

In the parliamentary arena, efforts to protect nonsmokers started in the spring of 1986, when four members of the centrist Social Liberal Party moved a parliamentary resolution on (1) a bill affording protection against passive smoking and (2) an initiative to induce management and labor to draw up voluntary regulations on smoking in the private sector.⁸⁹ A mid-1980s public health campaign on passive smoking had not, according to the resolution's movers, achieved sufficient protection for nonsmokers. Except for the right-wing Progress Party—whose spokesman inveighed

against “Prohibition, prohibition, prohibition, always prohibition!”⁹⁰—members of Parliament widely agreed that passive smoking was a serious problem calling for concrete actions. What divided the members were the appropriate means for promoting smoke-free environments. The minority, including the government parties, moved for rejection of the motion because “information and voluntary agreement give the best results.” In addition, the minority “considered it unsatisfactory that the Parliament did not wait for comments from the local authorities’ organizations and from the labor market organizations.”⁹¹ The motion was adopted in a vote that saw many members of Parliament on both sides of the chamber either departing from their parties’ positions or abstaining from voting.⁹²

The bill, which was introduced in January 1987, prohibited smoking in the public sector in rooms functioning as a workplace for more than one employee, and also in employee common rooms. Smoking would also be prohibited at meetings in the public sector; in hospitals, day-care centers, residential institutions, and educational establishments; and on public transportation. The bill provided for exceptions under specified circumstances—for instance, if separate premises designated for smoking could be established.

The Parliament was deeply divided, with the left predominantly supporting, the right predominantly rejecting, the bill. The readings were heated and attracted much media attention. As observed by a member during the first reading: the debate “is apparently a matter of great public interest. It is a long time ago since the press gallery, except in situations of crises, has been so crowded and with so many cameras on both sides of the chamber as we see today.”⁹³ As observed by another, it also engaged the members of Parliament: “It is, in fact, seldom to see that many people present in this chamber.”⁹⁴ The readings indirectly revealed smoking practice at the time. The Liberal spokesperson mentioned that it was only on the very day of the first reading of the bill that her own party had introduced a rule against smoking during the first half hour of party

meetings.⁹⁵ Another Liberal member, whose party rejected the bill, remarked to a newspaper how smoking made meetings in, of all places, the parliamentary Environmental Committee totally intolerable.⁹⁶ Other signs of the members' mixed feelings about the bill were the extraordinary number of amendments and the political parties' release of their members to vote their conscience.⁹⁷

In the end, the bill was defeated by a vote of 81 to 67 (with 3 abstentions). Those opposed to the bill repeated their arguments from the parliamentary readings of the previous year that the bill was too restrictive on smokers and that it violated the traditional preference in Danish politics for voluntary means over legislative prohibition. In the wake of the bill's defeat, the government decided to issue a departmental circular on smoke-free environments through the Ministry of Health.⁹⁸ Although the wording of the 1988 circular mirrored the bill, the circular regulated only central government premises, and its exemptions were broader than those in the bill. A 1990 departmental circular from the Ministry of Social Affairs requested local authorities to ensure that children in day care and the like were not exposed to passive smoking, and a Ministry of Labor departmental order from 1992 determined that nonsmokers must be sufficiently protected against smoke in canteens at work.⁹⁹

There is no legislation in Denmark that regulates smoking in workplaces in the private sector, although there has been much encouragement for the private sector to adopt restrictions similar to those in the public sector; in Denmark, such issues are regulated exclusively through voluntary agreement between labor unions and employers' associations without state involvement. In 1989, at the request of the newly founded Council on Smoking and Health, and with the expectation that the failure to act would potentially lead to unilateral action by Parliament or the government, the Danish Confederation of Trade Unions and the Danish Employers Confederation—through their Cooperation Board—agreed to call on the liaison committees in Danish firms covered by collective agreements to draw up sensible smoking regulations. (All Danish firms with 35+

employees covered by collective agreement must have liaison committees, which are responsible for personnel policies, including smoking regulations.) The Cooperation Board stated:

Choosing to smoke is a private matter. The same cannot be said for passive smoking, i.e., when nonsmokers are exposed to smoke from smokers. It is the Cooperation Board's opinion that any problems in that connection cannot be solved via central, binding rules. However, the Cooperation Board believes in the value of local measures. The Cooperation Board therefore encourages the liaison committees to introduce the issue on the agenda and to discuss a reduction of the discomforts smokers might cause nonsmokers.¹⁰⁰

Since no survey of such voluntarily adopted smoking regulations has been conducted, little is known about their content—only that they vary considerably. Total bans on smoking are rare. Many canteens do not have smoke-free sections; instead, smokers must abstain from smoking during the first fifteen minutes of the lunch break.¹⁰¹ In 1995, an industrial arbitration considerably extended the circumstances under which smoking may be considered exclusively a matter of management policy (rather than personnel policy to be decided upon by joint, labor-management liaison committee). The management of a Danish company, which had been taken over by an American corporation with a smoke-free image, had unilaterally introduced regulations that came close to a total ban on smoking on the company's premises. In this particular case, the arbitrator found that the firm's wish to convey a "green image" could not be dismissed as irrelevant from an operational viewpoint, and the regulation of smoking therefore was properly considered to be a management matter.¹⁰²

With the 1987 bill defeated and the departmental circular on smoke-free environments issued, there was little incentive for Parliament to make a new attempt at passing a bill on passive

smoking. In the early 1990s, however, the pendulum started to swing toward further restrictions. The Organisation for Economic Co-operation and Development published a report that sent shock waves through the media and the political establishment. Danes had dropped from the fifth highest mean life expectancy in the OECD in the late 1970s to thirty-fifth place in the early 1990s. National pride was injured. In their self-image, Danes have the world's best and most generous welfare state, whose universal provisions promote equality, health, and a good life for all its citizens. Now it turned out that something was not as healthy in Denmark as had been believed. It was particularly hurtful for Danes to discover that they were dying at the same age as people living in what were perceived as "backward" countries such as Greece and Portugal.¹⁰³ The OECD report alarmed health professionals and policymakers. Mean life expectancy in Denmark had virtually stagnated for fifteen years, a development found in no other Western country. In 1992, the Ministry of Health therefore decided to form a Mean Life Expectancy Committee, which proceeded to launch a series of research and review projects. In the fourteen reports published by the committee, tobacco consumption stood out as a major explanation of low mean life expectancy in Denmark.¹⁰⁴ Suddenly, health professionals who had been involved in tobacco control for years no longer felt that they were considered fanatical health freaks by their fellow medical professionals (many of whom were themselves smokers) or by policymakers. In the mid-1990s, tobacco smoking had definitely placed itself on the national agenda as a serious health problem.¹⁰⁵

The Ministry of Health also took action by launching a series of initiatives to control tobacco consumption and to promote smoke-free environments, and in 1995, the ministry's 1988 circular became law through an act of Parliament. In one important respect, the act extended the provision of the circular: local and county authorities were now required to draw up smoking policies, although the act did not specify their form or content. Interestingly, the preamble of the act states: "The purpose of the law is to reduce—considering the interests of smokers as well as

nonsmokers—the discomforts of passive smoking in public buildings, public transportation, and the like, and to reduce the associated health risks.”¹⁰⁶ The explicit mention of smokers in the preamble illustrates how highly divisive restrictions on smoking in public areas were at the time that the act was passed. The act was not, to be sure, optimal from the perspective of those who advocated tough antismoking measures, but it did indicate a decisive shift in attitudes among members of Parliament.¹⁰⁷

Parliamentary anti-tobacco advocates found a government ally in a Social Democratic economist who became minister of health in 1999. He knew how to read figures and personally became deeply convinced that tobacco consumption was the major health problem in Denmark. At political rallies he missed no opportunity to mention the tobacco problem and soon annoyed many of his fellow Social Democrats in Parliament. In May 1999, during his tenure as minister, he launched the government’s Program on Public Health 1999–2008. For the first time, all available antismoking policy instruments were formulated into a coherent program, and other future initiatives were listed. Since this program was the government’s, not the ministry’s, it had already been accepted by the cabinet and by the government coalition parties. It is possible, however, that the minister’s cabinet colleagues and the members of the coalition parties may not have read the program very carefully. It turned out that the minister had every intention of launching the initiatives mentioned in it, including a bill prohibiting smoking altogether in hospitals and in all institutions for children and teenagers. His initiative met fierce opposition, even in his own party, which was as divided on the issue as it was on the 1987 bill on smoke-free environments. Some members of Parliament argued, for example, that a bill prohibiting smoking altogether in hospitals and in all institutions for children and teenagers might have negative side effects; if smoking were prohibited in youth clubs, low-resource youngsters, who might particularly benefit from the educational and social services offered by youth clubs, might stay away because such youngsters

are often smokers.¹⁰⁸ Others argued that the intention of turning health care workers into role models was unacceptable; not only did it violate individuals' rights, but it was uncertain what would happen to health care workers who would not or could not comply. Yet others argued that the initiative violated the principle of local autonomy.

Even before the minister of health had a chance to draft a bill, the prime minister refrained from reappointing him during a reshuffling of the cabinet in February 2000. His replacement, however, continued the same, tough stand on tobacco control (as did the next minister of health, too) and in October 2000 introduced a bill prohibiting smoking in institutions for children and teenagers. The bill forbids children and teenagers to smoke altogether, while adults are forbidden to smoke whenever they are together with children and teenagers. The bill has an exemption clause that may come into effect in, for instance, institutions for dysfunctional children and youths, where enforcing the smoking ban might give rise to conflicts.¹⁰⁹ The bill caused a public dispute between the Social Democratic minister of health and the Social Liberal minister of education. The Social Liberals are traditionally the firmest anti-tobacco advocates in Parliament; they also oppose central government interference, however, in local decisions concerning education. In the end, the anti-tobacco arguments prevailed, and the Parliament passed the bill in December 2000.

Initiatives to promote smoke-free environments have undoubtedly been the most controversial aspect of Danish tobacco-control policies, and they are still highly disputed. Initiatives to control the price, visibility, and content of tobacco products caused little opposition and are considered fully legitimate means to reduce tobacco consumption. Policies to control smokers are a very different matter. They clash with the principles of free choice and voluntary agreements, which are deeply rooted in Danish politics (although proponents of tough policies to create smoke-free environments argue that nonsmokers are not offered the same free choice *not* to be exposed to smoke). There is, however, no doubt in which direction the pendulum is swinging. Health

policymakers have advocated still more restrictive measures and most likely will continue to do so—which may well be in line with popular opinion. Although, as indicated above, surveys show that the Danes are less inclined than citizens of other EU countries to favor restrictions on smoking in public areas, Danish attitudes may be changing. Yearly surveys done by the Council of Smoking and Health demonstrate that a constant number of Danes, over time, report that they are bothered by smoke all day in the workplace.¹¹⁰ As an objective matter, however, that cannot be true. Although compliance with smoke-free restrictions is sometimes low, it is generally fairly good, and the regulations themselves have actually become more stringent. Consequently, as a matter of fact, fewer Danes should be bothered by smoke *all day* in the workplace. A reasonable interpretation is that Danish nonsmokers have become increasingly intolerant of smoke—and that they therefore *feel* bothered. They may therefore support and push for further restrictions on smoking in the workplace.

Initiatives to create smoke-free environments were greatly helped by concerns in the early and mid-1990s over the causal relation between active smoking and low mean life expectancy in Denmark. It is ironic, however, that these same concerns have led to few new initiatives targeted at reducing active smoking. Instead, the focus of tobacco-control policies in the late 1990s remained on the promotion of smoke-free environments, which is first and foremost a protection against passive smoking alone—a comparatively insignificant risk compared to that of active smoking.

Moral Politics

The vast majority of decisions in the Danish Parliament are taken along party lines. Sometimes the parliamentary parties allow their members to deviate from the party line, however, and to vote in accordance with their “conscience.” In everyday political parlance, the issues at stake in such cases are “ethical” or “moral” ones. It is quite unclear what makes some, but not other,

issues “ethical.” They appear to be issues on which the political parties have taken no official position and on which the parties’ fundamental philosophies or stance on other ideological matters do not lead to an unambiguous position. Whenever members of the Danish Parliament have cast votes of conscience during the last forty years, the Parliament has mostly deregulated the matter in question, leaving decision making to the individual’s free choice. As noted earlier, examples include abortion, consumption of pornography, abortion, and choice of spouse (that is, registered partnership). A conspicuous exception concerns the artificial insemination of lesbians and single women.¹¹¹

The promotion of smoke-free environments is the only aspect of Danish tobacco-control policies that has been subject to votes of free conscience. In this context, it is worth noting that quite apart from party affiliations, a substantial and apparently growing minority of the Danish Parliament chooses to move in the direction of greater regulation. That is, smoking is no longer to be considered a private matter, but something that calls for public regulation—the argument being that insofar as nonsmokers are involuntarily exposed to tobacco smoking, smokers’ choice infringes on nonsmokers’ choice to live and work in smoke-free environments.

Smoking has also moved from the private to the public arena in quite another sense, and here, too, has become a moral issue. The individual’s decision to smoke is not (yet) considered morally objectionable. Nevertheless, profiting from tobacco production and trade *is*. In 2000, Danish newspapers ran numerous articles critical of tobacco production, trade, consumption, and policy, and one newspaper¹¹² launched what appeared to be a well-orchestrated campaign to discredit both the industry and the minister of health. As its point of departure, the newspaper campaign defined tobacco production as morally objectionable. As a matter of logic, representatives of the tobacco industry were therefore morally corrupt, and steps by the industry to defend its interests, morally repugnant. Included in this judgment were efforts to approach politicians or civil

servants in the manner that any other Danish industry would do in order to protect its own interests. Another target was the Danish Doctors' Pension Fund, which had to sell its shares in Scandinavian Tobacco Company after critical press coverage. Even the Danish government came under attack; it had to withdraw its financial support to House of Prince for the company to begin manufacturing tobacco in the Baltic countries. It was deemed irrelevant that the company had applied and obtained government support on the exact same conditions as other Danish companies. In these and other cases, the press coverage came close to a moral crusade of the type to which the Danes usually think themselves immune.

There is no longer anything sacred about smoking in Denmark. From having been a private matter—the scope of which the government, by indirect means, might legitimately attempt to reduce—tobacco consumption has not just become one public health concern among others, but arguably what is felt by many to be the single most urgent health concern for the Danish people. As a result, there is little moral room for arguments in favor of tobacco consumption. Smoking has almost become a “valence” issue—that is, an issue to which there is essentially only one side in the public debate. One may still argue that, as a matter of principle, the state should not make decisions on behalf of its citizens and therefore should not deprive smokers of a choice. Or one may argue in utilitarian terms that, for instance, restrictions on smoking in youth clubs might be detrimental to the clubs' efforts to reach out to socially disadvantaged youngsters.¹¹³ Apart from these arguments, there are few left.

It is worth noting that alcohol consumption has not become a morally one-sided issue. Although the estimated annual mortality due to alcohol is far below the mortality related to tobacco, Danes do drink more than people in most other Western countries,¹¹⁴ and there are severe health problems related to alcohol consumption. Not nearly as many people are exposed to passive drinking as to passive smoking, but fetuses, children, and spouses of alcoholics all experience the

harmful consequences—whether physical, psychological, economic, or social—of that particular form of substance abuse. Nevertheless, the harmful effects of alcohol consumption get little attention in the Danish media, and media coverage of alcohol is void of the moral objections made to tobacco. Thus, there is no moral condemnation of Carlsberg or other companies that produce, distribute, or sell spirits and wine. Quite the contrary, newspapers are filled with reviews of wine; food sections recommend wine; travel sections write about trips to interesting wine districts; and, of course, wine is being served in talk shows on Danish television in order to create the image of Danish *hygge*, the homey, snug atmosphere so essential to Danish self-identity and self-pride. None of these phenomena seem to morally upset journalists to any appreciable extent. The social constructions of tobacco and alcohol at the beginning of the twenty-first century are thus almost the reverse of what they were at the beginning of the twentieth century. One explanatory factor may be that early in the twentieth century, alcohol consumption was clearly more prevalent in the lower classes and tobacco consumption more prevalent in the upper classes; whereas today, tobacco consumption has become a lower-class phenomenon,¹¹⁵ while education and income level are positively correlated with alcohol consumption (and negatively correlated with attitudes towards more restrictive alcohol policies).¹¹⁶

Why did popular opinion and tobacco-control policies in Denmark shift toward ever more restrictive measures even though the configuration of interests and policy history would suggest that just the opposite would occur? First, international scientists, experts, and policymakers have managed with great authority to promote the view that smoking is a serious public health problem, and that tough measures must be taken to control it. These actors have gained an institutional position from which they can speak with a concentrated voice, and they have been instrumental in moving international bodies, such as the WHO, the OECD, the European Council, and the EU, to take an increasingly tough stand on tobacco control. As far as Denmark specifically, there have

been public health experts in the relevant government agencies dealing with tobacco consumption for a very long time, supported by the Danish Cancer Society and the Danish Lung Association. Their institutional basis was extended and strengthened by the establishment of the Council on Smoking and Health, and they enjoyed increasing support from international actors. These developments have gradually shifted the interest configuration of tobacco-control policies away from being primarily a matter of “client politics,” and toward “entrepreneurial politics”—that is, a situation in which a proposed policy will confer general benefits at a cost to be borne chiefly by a small segment of society, in this case the tobacco industry.¹¹⁷ In the late 1990s and the early years of the new century, a political climate has emerged in which there is a willingness to change the path that was embarked upon in the early twentieth century: tobacco-control policies are today legislated unilaterally, and smoking is no longer a private matter when it may harm nonsmokers.

Policy Effects?

Except for excise duties, tobacco-control measures have gradually become tougher in Denmark, but their effects are debatable. To the extent that they have been complied with, measures to control passive smoking have had the immediate effect of reducing the discomfort that smoking causes nonsmokers. It is unclear, however, whether such measures have any direct effect on mortality related to smoking.

The same is true for most of the measures introduced to control active smoking. A dramatic increase in excise duties on cigarettes in the late 1920s and early 1930s had a marked influence on consumption. After World War II, increases in duties had a short-, but no long-term, effect. Ironically, consumption per capita and the total number of smokers fell at a time when Danish excise duties were decreasing due to EU adaptation. And despite the comparatively high duty level,

Danes still smoke more than people in most other Western countries. If there is a relation between duties and consumption, it is most definitely circumscribed by other factors. The same is true for advertising. Although broadcasted advertising for tobacco products was never allowed in Denmark, and although the Danish tobacco industry voluntarily restricted other forms of advertising before most other countries, the Danes still have had a much higher level of tobacco consumption than people in comparable countries. In addition, it is unclear whether the reduction in tar and nicotine yield has reduced tobacco-related diseases and mortality as intended. The reduction in yield may well have had the opposite effect. The number of cigarettes sold in Denmark remained constant during the 1990s¹¹⁸ and, as mentioned, with a decreasing share of full-flavor cigarettes and an increasing share of milder cigarettes being sold. Nevertheless, as we saw in Figures 2 and 3, the number of cigarette smokers in Denmark decreased during the same period. The inference to be drawn is that heavy smokers today smoke more cigarettes than before in order to get their daily doses of nicotine. Thus, an analysis of tobacco-control measures in Denmark yields ambiguous evidence concerning the impact of such measures. The case of Denmark illustrates not only the complex social and political problems, but also the difficult problems of factual assessment, that governments may encounter in attempting to address public health issues within the framework of the liberal state.

Despite the possible failure of each of the above government measures to reduce tobacco consumption and its injurious impact on health, the overall number of smokers and also the number of cigarette smokers have, in fact, declined in Denmark during the 1990s. These declines most likely reflect changes in public attitudes, but whether these attitudinal changes are an effect of government policies, or vice versa, is difficult to determine. It may well be, however, that a series of increasingly tough measures to reduce active, as well as passive, smoking has had a combined effect on Danes' attitudes toward smoking, making them less and less inclined to smoke.¹¹⁹

Endnotes

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- ¹ See Peter A. Hall and Rosemary C.R. Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* 44: 936–57 (1996); Asbjørn Sonne Nørgaard, *The Politics of Institutional Choice* (Århus: Politica, 1997).
- ² Niels Gustav Bardenfleth, *Tobak*, vol. 1, *Danskerne og Tobakken* (Copenhagen: Nyt Nordisk Forlag Arnold Busk, 1992), 33–34.
- ³ *Jyllands-Posten*, August 23, 2000; *Politiken*, August 23, 2000. It was further revealed that the former chairman of Hen-ry—a well-known Danish physician—had received a fixed monthly allowance from Philip Morris for a number of years. *Jyllands-Posten*, January 2, 2000; *Politiken*, August 23, 2000.
- ⁴ Niels Gustav Bardenfleth and Peter Th. Madsen, *Tobaksindustrien 1875–2000* (Copenhagen: Tobaksindustrien, 2000).
- ⁵ *Statistisk Årbog* 1929.
- ⁶ Bardenfleth and Madsen, *Tobaksindustrien 1875–2000*, 88–89; *Statistisk tiårsoversigt* 2000.
- ⁷ James Q. Wilson, "The Politics of Regulation," in *The Politics of Regulation*, ed. James Q. Wilson (New York: Basic Books, 1980).
- ⁸ Erik Albæk, "The Limits of Liberal Ethics: Homosexuals between Moral Dilemmas and Political Considerations in the Danish Parliament," *Scandinavian Political Studies* (forthcoming).
- ⁹ *Passive Smoking or the Pollution of Non-smokers by Smokers* (Eurobarometer survey, 1993), at <http://europa.eu.int/comm/public_opinion/archives/special.htm>.
- ¹⁰ *Politiken*, February 26, 2001.
- ¹¹ Hugo Keseloot, "Queen Margrethe II and Mortality in Danish Women," *Lancet* 357: 871–72 (2001). The article was widely mentioned and discussed in the Danish media, and Danish

epidemiologists questioned its scientific validity. See Rune Jacobsen, Allan Jensen, Niels Keiding, and Elsebeth Lynge, "Queen Margrethe II and Mortality in Denmark," *Lancet* 358: 75 (2001).

¹² World Health Organization, "Denmark," in *Tobacco or Health: A Global Status Report: Country Profiles by Region, 1997*, at <<http://www.cdc.gov/tobacco/who/whofirst.htm>>.

¹³ Ibid.

¹⁴ Ronald Inglehart, Miguel Basanez, and Alejandro Moreno, *Human Values and Beliefs* (Ann Arbor: University of Michigan Press, 1998).

¹⁵ Lise Tøgeby, "The Political Implications of the Increasing Number of Women in the Labour Force," *Comparative Political Studies* 27 (2): 211–40 (1994); see also Constance A. Nathanson, "Mortality and the Position of Women in Developed Countries," in *Mortality in Developed Countries: From Description to Explanation*, eds. Alan D. Lopez, Graziella Caselli, and Tapani Valkonen (Oxford: Clarendon Press, 1995).

¹⁶ Jan Andreasen, "Rygning—den store dræber," *Ugeskrift for læger* 161: 6688 (1999).

¹⁷ World Health Organization, "Denmark."

¹⁸ Sundhedsstyrelsen et al., *Tobak i sundhedsplanlægningen* (Copenhagen: Sundhedsstyrelsen, 1995), 12.

¹⁹ Susanne Reindahl Rasmussen and Jes Søgaaard, "Tobaksrygningens samfundsøkonomiske omkostninger," *Ugeskrift for læger* 162 (23): 3329–33 (2000); Skatteministeriet, *Rapport om Grænsehandel* (Copenhagen: Skatteministeriet, 2000), 266.

²⁰ Bardenfleth, *Danskerne og Tobakken*, 34.

²¹ Jørn Henrik Petersen, *Den danske alderdomsforsørgelseslovgivnings udvikling*, vol. 1 (Odense: Odense Universitetsforlag, 1985), 32.

²² Ibid., 95–107.

²³ *Statistisk Årbog* 1903, pp. 160–61.

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- ²⁴ Helge Smith, "Tobaksbeskatning: Udviklingen i Danmark," in Kristof Glamann, *75-foreningen: 1875–1950* (Copenhagen: Cigar- og Tobaksfabrikanternes forening af 20. juni 1875, 1950), 251.
- ²⁵ *Rigsdagstidende* 1911–12, Tillæg B, 1007. The translations from the Danish are by the author.
- ²⁶ Smith, "Tobaksbeskatning," 250.
- ²⁷ Kristof Glamann, *75-foreningen: 1875–1950*, 221–41; Smith, "Tobaksbeskatning," 249–50.
- ²⁸ *Rigsdagstidende* 1918–19, Tillæg C, 27–42.
- ²⁹ Beretning fra Tobakskommissionens Underudvalg angaaende Revisionen af Tobaksafgiftsloven af 21. December 1918 m.m., *Rigsdagstidende* 1921–22, Tillæg A, 3497–520.
- ³⁰ *Rigsdagstidende* 1921–22, Tillæg C, 397–426.
- ³¹ Smith, "Tobaksbeskatning," 254–55.
- ³² *Folketingets Forhandlinger* 1921/22, col. 4873.
- ³³ Peter Gundelach, *Sociale bevægelser og samfundsændringer* (Århus: Politica, 1988), 159.
- ³⁴ Sidsel Eriksen (associate professor and specialist in the history of alcohol consumption and control policies in Denmark, Department of History, University of Copenhagen), interview by author, November 30, 2000.
- ³⁵ This refusal to take health issues into account was quite different from what happened with regard to tax policies on alcohol—which were debated during the same period. Despite a steady decrease in alcohol consumption since the 1850s, the temperance movements sharply increased their membership from 55,000 in 1895, to 137,000 in 1905, and to 200,000 in 1917, making them one of the major social movements of the time. Apparently, increased urbanization had rendered drinking more visible and thereby intensified the understanding of alcohol consumption as a social problem. The movements were instrumental in making the harmful health and social effects of alcohol consumption very visible on the public agenda. A question to the finance minister in 1880 resulted in an 1882 report on intemperance problems in Denmark. Although the Parliament did not base the

1891 beer duty on health or social concerns, it was seen as a major victory for the temperance movements. In 1903 a temperance commission was established, whose mandate closely followed the view of the temperance movements, and another commission was established in 1912. In 1917 the government temporarily prohibited sale of distilled spirits and wine during the month of March; the war had caused such a shortage of grain and potatoes that prices might have spiraled out of control. Recognizing an opportunity to turn the government's temporary prohibition into a permanent arrangement, the temperance movements organized a petition in support of prohibition. About half of all voters actually signed the petition, which was quite an achievement for the temperance movements, but the effort fell short. The government opted, instead, for a solution with fiscal benefits for the state: state monopolization of the production of distilled spirits; rationing; and dramatically increased taxes. The excise duty on a bottle of *snaps* (distilled spirits) increased from 99 ører to 11 kroner—that is, by an astonishing 1,111.11 percent. After the level of alcohol consumption plummeted and reached a record low, the temperance movements lost their popular appeal in national politics, and their membership decreased rapidly and sharply. See Gundelach, *Sociale bevægelser og samfundsændringer*, 152–70.

³⁶ Bo Rothstein, *Vad bör staten göra? Om välfärdsstatens moraliska och politiska logik* (Stockholm: SNS Förlag, 1994); Nørgaard, *The Politics of Institutional Choice*.

³⁷ *Folketingets Forhandlinger* 1928–29, col. 758.

³⁸ *Ibid.*, col. 1038.

³⁹ *Beretning afgivet af det af finansministeriet nedsatte udvalg til gennemgang og vurdering af forbrugsafgiftslovgivningen* (Copenhagen: Statens trykningskontor, 1970), 33.

⁴⁰ Christian Lemvig Poulsen, “Tobakspolitik i Danmark?” (M.A. thesis, Århus: Institut for Statskundskab, Aarhus Universitet, 2001), cover.

⁴¹ *Ibid.*, 101–02.

⁴² Skatteministeriet, *Rapport om Grænsehandel*, 243.

⁴³ *Statistisk Årbog* 1914, p. 177; 1921, pp. 185–86; 1951, pp. 258–60.

⁴⁴ *Statistisk tiårsoversigt* 2001.

⁴⁵ *Børsens Nyhedsmagasin*, November 5–11, 2001.

⁴⁶ Skatteministeriet, *Rapport om Grænsehandel*, 43.

⁴⁷ *Mandag Morgen*, March 3, 2000.

⁴⁸ Skatteministeriet, *Rapport om Grænsehandel*, chap. 7.

⁴⁹ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg*, Betænkning No. 357, pp. 33–35 (1964).

⁵⁰ Figure 1 presents only overall cigarette consumption in Denmark. Studies indicate, however, that price affects cigarette consumption among young people, in particular—and therefore in the long term may have a positive effect on overall consumption. See Frank J. Chaloupka, Prabhat Jha, Henry Saffer, Ken Warner, Teh-wei Hu, Ayda Yureli, Rowena van der Merwe, and Kent Ransom, “Advice to Governments: Tobacco Taxes, Control Policies, and Tobacco Use” (paper presented at the 126th Annual Meeting and Exposition of the American Public Health Association, Washington, DC, November 1998), 19.

⁵¹ Skatteministeriet, *Rapport om Grænsehandel*, chap. 7. It should be noted that historically the high price of cigarettes in Denmark has given rise to only limited illegal import. For forty-five years Gallup has asked a representative sample of one thousand Danes almost every other week: “Did you smoke yesterday?” If yes, “How much did you smoke yesterday?” The respondents’ answers account for 95 percent of the cigarette consumption registered by the Danish tax authorities. See Niels Søren Hansen, *Rygningens sociologi* (n.p.: Tobaksskaderådet, 1995), 9.

⁵² *Folketingets Forhandlinger* 1925–26, cols. 1117–29.

⁵³ *Kulturministeriets bekendtgørelse nr. 416 af 18. juni 1987 om indholdet af reklameindslag, der bringes på TV2.*

⁵⁴ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg, 7.*

⁵⁵ As part of the campaign, there was a live radio broadcast of a lung cancer operation. The press wrote the next day that the “sound of knives cutting into bones, the bubbling blood, the wheezing sound of air entering the breast cavity accompanied by the neutral comments of the surgeons made a deep impression.” *Politiken*, February 10, 1961.

⁵⁶ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg, 9.*

⁵⁷ *Ibid.*, 35.

⁵⁸ Abraham Rosenberg, *Ryg mindre— lev længere* (Copenhagen: Schønberg, 1954).

⁵⁹ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg, 17–18.*

⁶⁰ The expert was a professor of sales and marketing at the Copenhagen Business School. In 1952 he had published his doctoral thesis on the demand pattern for cigarettes, 1920–50. See Max Kjær-Hansen, *Cigaretforbruget 1920–50* (Copenhagen: Einar Harcks Forlag, 1952).

⁶¹ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg, 18.*

⁶² The latter restriction had just that year been introduced in trams and buses in the cities of Copenhagen and Frederiksberg.

⁶³ *Betænkning om foranstaltninger til nedsættelse af cigaretforbruget afgivet af det af Indenrigsministeriet under 29. maj 1963 nedsatte udvalg, 16.*

⁶⁴ *Ibid.*, 15.

⁶⁵ *Regler for reklamering* (Copenhagen: Cigar- og Tobaksfabrikanternes Forening af 20. Juni 1875, April 1972).

⁶⁶ Arbetsgruppen tillsatt med anledning af Nordiska rådets rekommendation nr 12/1972, angående förbud mot tobaksreklam, *Nordiska tobaksarbetsgruppens betänkande* (Nordisk Utredningsserie 1975:24), 9.

⁶⁷ Ibid.

⁶⁸ *Regler for markedsføring af tobaksvarer* (Copenhagen: Cigar- og Tobaksfabrikanternes Forening af 20. Juni 1875, 1980); *Aftale mellem Tobaksindustrien og Indenrigsministeriet: Regler for markedsføring af tobaksvarer* (Copenhagen: Cigar- og Tobaksfabrikanternes Forening af 20. Juni 1875, March 11, 1986); *Aftale mellem Tobaksindustrien og Sundhedsministeriet om markedsføring af tobaksvarer* (Copenhagen: Cigar- og Tobaksfabrikanternes Forening af 20. Juni 1875, November 6, 1991).

⁶⁹ Forslag til folketingsbeslutning om forbud mod markedsføring og reklamering for tobak og spiritus (B 67), *Folketingstidende* 1987–88, Tillæg A, 2625.

⁷⁰ Forslag til lov om sikring af røgfri miljøer og mærkning m.v. af tobaksvarer (L 58), *Folketingstidende* 1987–88, Tillæg A, 1233–36; Forslag om mærkning sikring af røgfri miljøer og mærkning af tobaksvarer m.v. (L 63), *Folketingstidende* 1987–88, Tillæg A, 1367–70.

⁷¹ See Gilmore and McKee's chapter on the European Union.

⁷² For similar reasons Denmark objected to a convention—the European Convention on Transfrontier Television—adopted by the European Council in May 1989 prohibiting hidden advertising (Article 13(3)) and tobacco advertising (Article 15). Due to widespread skepticism in the Danish population and the Danish Parliament toward increased EU integration, Danish governments have had to object on several occasions to EU policy proposals on grounds of

principle, even though the government and, indeed, the parliamentary opposition may substantially have agreed with the proposals.

⁷³ With its pending veto, the Danish government had placed itself in an awkward position: it could not bring other member states before the European Court of Justice for noncompliance and, at the same time, consistently claim that the directive was contrary to the terms of the EC Treaty.

Tobaksskaderådet, *Tobaksreklamer og sponsorering: En redegørelse fra Tobaksskaderådet* (1990).

⁷⁴ See Act No. 426 (June 13, 1990), the Ministry of Health's Departmental Order No. 1213 (December 23, 1992), and Act No. 1086 (December 23, 1992).

⁷⁵ *Lov nr. 492 af 7. juni 2001 om forbud mod tobaksreklame m.v.*

⁷⁶ Tobaksskaderådet, *Tobaksreklamer og sponsorering*, 21.

⁷⁷ *Politiken*, June 25, 1996.

⁷⁸ Tobaksskaderådet, *Tobaksreklamer og sponsorering*, 19, 26–28.

⁷⁹ Lov om et forebyggelsesråd (L 203), *Folketingstidende* 1978–79, Tillæg A, 3379.

⁸⁰ *Folketingstidende* 1986–87, Tillæg B, 2191–98; *Folketingets Forhandlinger* 1986–87, cols.

12613–20. In 2001 the Parliament decided to further promote public health in Denmark by merging a number of public health councils, including the Council on Smoking and Health, into a National Council of Public Health and a Center for Public Health under the National Board of Health. *Lov nr. 141 af 5. marts 2001 om ændring af lov om sundhedsvæsenets centralstyrelse m.v. med flere love og om ophævelse af lov om et forebyggelsespolitisk råd og et tobaksskaderåd. (Oprettelse af et nationalt råd for folkesundhed samt styrkelse af Sundhedsstyrelsens opgaver vedrørende kvalitetsudvikling, evaluering m.v. inden for sundhedsvæsenet).*

⁸¹ Poulsen, *Tobakspolitik i Danmark?* 80–81.

⁸² *Ibid.*, 75.

⁸³ *Udviklingen i det årlige salg af cigaretter fordelt efter kondensatniveauet, 1990/1991–1999/2000* (Skandinavisk Tobakskompani, on file with author).

⁸⁴ *Aftale mellem Tobaksindustrien og Sundhedsministeriet om indberetning af tilsætningsstoffer i cigaretter m.v.* (March 30, 2000).

⁸⁵ Forslag til folketingsbeslutning om, at tilsætningsstoffer og aromastoffer til tobak, der øger rygningens omfang, ikke længere kan tillades (B 154), *Folketingstidende* 1999–2000, Tillæg A, 7949.

⁸⁶ Bjarke Thorssteinsson (chief of Public Health Section, Ministry of Health), interview by author, November 30, 2000.

⁸⁷ One of the few exceptions was the Danish Hemophilia Society. In the late 1980s and early 1990s, the society mobilized media, popular, and political support by exploiting a number of judicial inquiries regarding the entry of HIV into the blood supply. Although the courts dismissed the society's substantive claims, Danish politicians gave in to growing pressure on several successive occasions and raised the level of *ex gratie* compensation to HIV-infected hemophiliacs and transfusion recipients—who, in the end, received the highest medical-injury compensation in Danish history. See Erik Albæk, "The Never-Ending Story? The Political and Legal Controversies over HIV and the Blood Supply in Denmark," in *Blood Feuds: AIDS, Blood, and the Politics of Medical Disaster*, eds. Eric A. Feldman and Ron Bayer (New York, Oxford: Oxford University Press, 1999).

⁸⁸ *Ansøgning om fri process* (application for free legal aid prepared by Anker Laden-Andersen, attorney-at-law, on behalf of the client, October 18, 2000).

⁸⁹ Folketingsbeslutning om sikring af røgfri miljøer (B 116), *Folketingstidende* 1985–86, Tillæg C, 914.

⁹⁰ *Folketingets Forhandlinger* 1985–86, col. 9394.

⁹¹ Ibid., col. 1850.

⁹² Ibid., col. 12004.

⁹³ *Folketingets Forhandlinger* 1986–87, col. 5799.

⁹⁴ Ibid., col. 13291.

⁹⁵ Ibid., col. 5780.

⁹⁶ *Berlingske Tidende*, January 22, 1987.

⁹⁷ Members of the Municipal Affairs Committee moved a whole battery of amendments to the bill—both when the Committee submitted its report before the second reading and its supplementary report before the third reading. Many of the amendments proposed to tighten the bill’s provisions (for instance, by imposing a ban on tobacco advertising). There were so many amendments that several members of Parliament complained that they were not sure what they were about to vote on. This problem became particularly acute because the parties allowed their members to cast a vote of free conscience. In this situation, the MPs could not benefit from the normal division of labor in a party group and, faced with many amendments and also amendments to amendments, rely on the voting pattern of the party spokesperson, with whom they might, in fact, disagree. Four small parties voted in unison. The rest of the parties were split—especially the Social Democrats, with 31 voting for the bill, 16 against, and 3 abstaining. Contrary to ordinary practice, the vote of every single member is listed in the official report of parliamentary proceedings.

Folketingets Forhandlinger 1986–87, cols. 13276–97.

⁹⁸ *Sundhedsministeriets cirkulære om sikring af røgfri miljøer i statslige lokaler, transportmidler o.lign. af 23. marts 1988.*

⁹⁹ *Socialministeriets cirkulære nr. 203 af 26. oktober 1990 om dagtilbud for børn og unge efter bistandslovens § 64; Arbejdsministeriets bekendtgørelse nr. 1163 af 16. december 1992 om faste arbejdspladsers indretning.*

¹⁰⁰ Samarbejdsnævnet, *Rygning på arbejdspladserne* (Copenhagen: DA og LO, 1989).

¹⁰¹ Benny Jensen (consultant, Central Organization of Industrial Employees in Denmark), interview by author, November 29, 2000.

¹⁰² *Opmandskendelse i faglig voldgift: Grafisk Arbejdsgiverforening for Avery Etiketsystemer A/S mod Grafisk Forbund, Dansk Metalarbejderforbund og Handels- og Kontorfunktionærernes Forbund i Danmark* (1995).

¹⁰³ Peter Bjerregaard and Knud Juel, *Middellevetid og dødelighed: En analyse af dødeligheden i Danmark og nogle europæiske lande 1950–1990* (Copenhagen: Sundhedsministeriet, 1993) (first report from the Life Expectancy Committee of the Ministry of Health).

¹⁰⁴ Ibid.; Sundhedsministeriets Middellevetidsudvalg, *Levetiden i Danmark* (Copenhagen: Sundhedsministeriet, 1994) (second report from the Life Expectancy Committee of the Ministry of Health); Bjarne Hjort Andersen, *Tværnationale sammenligninger af ændringer i levestandarden i lyset af udviklingen i middellevealderen* (Copenhagen: Sundhedsministeriet, 1994) (fourth report); Henning Hansen, Niels Kristian Rasmussen, and Jytte Poulsen, *Livsstil og sundhedsvaner i Danmark: Status, forskelle og udviklinger* (Copenhagen: Sundhedsministeriet, 1994) (fifth report).

¹⁰⁵ Jørgen Falk (executive consultant, Council on Smoking and Health), interview by author, February 5, 2001.

¹⁰⁶ *Lov nr. 436 af 14. juni 1995 om røgfri miljøer i offentlige lokaler, transportmidler og lignende.*

¹⁰⁷ Only four years later, in 1999, members of the nonsocialist opposition parties, along with a member from the governing Social Democratic Party, moved a motion requesting the government to present a bill to establish uniform rules for smoke-free environments for institutions and means of transportation, both at the central and local levels of government. They also sought to prohibit all smoking in hospitals and in institutions for children and teenagers. *Forslag nr. 107 af 25. marts 1999 til folketingsbeslutning om ensartede regler for røgfri miljøer inden for stat, amtskommuner*

og kommuner samt Hovedstadens Sygehusfællesskab. The movers stated that the reason for the motion was that the 1995 act had simply proved ineffective. The motion lapsed, however, because it was still before the Parliament at the end of its session.

¹⁰⁸ Peder Sass (member of Parliament, Social Democrats), interview by author, February 5, 2001.

Sass is a firm nonsmoker, but also the chairman of Ungdomsringen, an association of Danish youth clubs and recreation centers.

¹⁰⁹ *Forslag nr. 45 af 11. oktober 2000 til lov om ændring af lov om røgfri miljøer i offentlige lokaler, transportmidler og lignende.*

¹¹⁰ Jørgen Falk, interview.

¹¹¹ Albæk, "The Limits of Liberal Ethics."

¹¹² *Jyllands-Posten* (in the autumn of 2000).

¹¹³ Such utilitarian arguments are not considered legitimate, however, when it comes to other substances. Politicians have not been willing to liberalize the availability of other substances—not even marijuana for medical purposes. Denmark's strictness with regard to other substances is not in line with its usual liberal stance (in contrast, for instance, to the Netherlands and Switzerland). It seems as if politicians have actually gone quite moralistic on this issue.

¹¹⁴ Productschap voor gedestilleerde dranken, *World Drink Trends 2002* (n.p.: NTC Publications, 2001); Swedish Council for Information on Alcohol and Other Drugs, *The 1999 ESPAD Report* (2000).

¹¹⁵ Hansen, *Rygningens sociologi*, 15–21.

¹¹⁶ Lau Laursen & Knud-Erik Sabroe, *Alkoholbrug og alkoholpolitik* (Århus: Aarhus Universitetsforlag, 1996), 33–34, 96–97.

¹¹⁷ Wilson, “The Politics of Regulation.” Contrary to Wilson, the argument here is that the institutional organization of policy, rather than the nature of policy per se, may shape politics. Cf. Nørgaard, *The Politics of Institutional Choice*, 52–54.

¹¹⁸ Bardenfleth and Madsen, *Tobaksindustrien 1875–2000*, 82–83.

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